

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Amendment of the Commission's	)	IB Docket No. 96-11
Regulatory Policies to Allow Non-U.S.-	)	
Licensed Space Stations to Provide	)	
Domestic and International Satellite	)	
Service in the United States	)	
	)	
and	)	
	)	
Amendment of Section 25.131 of the	)	CC Docket No. 93-23
Commission's Rules and Regulations to	)	RM-7931
Certain International Receive-Only	)	
Earth Stations	)	
	)	
	)	
COMMUNICATIONS SATELLITE	)	File No. 92-007
CORPORATION	)	
Request for Waiver of Section 25.131(j)(1)	)	
of the Commission's Rules as it Applies	)	
to Services Provided via the Intelsat K	)	
Satellite	)	

**REPLY COMMENTS OF BT NORTH AMERICA INC.**

**I. INTRODUCTION**

BT North America Inc. ("BTNA") hereby replies to the comments filed in response to the Notice of Proposed Rulemaking<sup>1</sup> in the above-captioned proceeding. BTNA is a U.S. subsidiary of British Telecommunications plc ("BT"), which provides

<sup>1</sup> Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States..., Notice of Proposed Rulemaking, IB Docket No. 96-111, CC Docket No. 93-23, RM-7931, File No. ISP-92-007, FCC 96-210 (Rel. May 14, 1996) ("Notice" or "DISCO II"). DISCO is an acronym for Domestic International Satellite Consolidation Order.

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global aeronautical and maritime telecommunications services by means of the International Mobile Satellite Organization (“Inmarsat”).<sup>2</sup>

As demonstrated in BTNA’s comments, no competitive entry test should be applied to “traditional” Inmarsat aeronautical or maritime services in either the “domestic” or international marketplaces - - however the Commission defines those terms. The other comments filed in this proceeding raise no facts that should prevent the Commission from reaching this conclusion. The commenting parties in this proceeding who advocate a competitive entry, or “ECO-Sat” test, for IGO services such as Inmarsat focus mainly on the competitive concerns surrounding the future land mobile services proposed by ICO, the Inmarsat affiliate. These concerns have no bearing on the need for an entry test for traditional Inmarsat maritime or aeronautical services.

As BTNA explains herein, distinguishing between “domestic” and “international” Inmarsat service for purposes of applying an ECO-Sat test is unworkable from the perspective of the Inmarsat service provider, is impractical and unduly burdensome for customers, and raises serious public safety concerns. Many of the commenting parties fail to recognize these realities in singling out “domestic” Inmarsat services for competitive entry treatment. Even if feasible, the imposition of such restrictions on niche maritime and aeronautical services in the United States would have little impact on “opening” the home markets of other Inmarsat or ICO operators. Thus, the Commission should allow open entry into the United States for the provision of Inmarsat maritime and aeronautical services.

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<sup>2</sup> Formerly, this organization was known as the International Maritime Satellite Organization.

## **II. APPLICATION OF AN ECO-SAT TEST TO TRADITIONAL INMARSAT “DOMESTIC” SERVICES WILL NOT ADVANCE COMPETITION IN THE US OR ABROAD**

Commenting parties who advocate the application of a competitive impact test to IGOs focus almost exclusively on Intelsat or IGO affiliates, not on traditional Inmarsat services. These commenters raise a variety of issues focusing on the broader mobile satellite services market and the fixed-satellite services market, alleging the ability of IGOs to exploit their market power leverage and distort competition.<sup>3</sup> While one purpose of an ECO-Sat test is to evaluate the potential for anticompetitive effects of new market entry, such far-ranging concerns simply have nothing to do with Inmarsat’s present provision of maritime and aeronautical mobile satellite services.

In their sweeping condemnations of IGO-related activities, these commenters fail to distinguish traditional Inmarsat services, which have virtually no competitive impact in the US domestic market. The aeronautical and maritime services in the “domestic” segment constitute a tiny percentage of the mobile satellite services markets.<sup>4</sup> AMSC, which does address traditional Inmarsat services in its comments, fails to show that provision of aeronautical and maritime Inmarsat services on domestic routes will have any significant competitive effect on its business. AMSC complains instead that any Inmarsat service overlapping its territory would diminish the amount of frequency spectrum

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<sup>3</sup> See, e.g., Comments of Columbia Communications Corporation at 22; Comments of Orion Network Systems, Inc. at 12 (Intelsat’s purported willingness to exercise alleged advantages in an anticompetitive manner); Comments of Motorola Satellite Communications, Inc. and Iridium, Inc. at 40-44 (possibility that ICO could merge with a successor of Inmarsat and gain a competitive advantage).

<sup>4</sup> See Comments of COMSAT Corporation at 4 (noting that the “Inmarsat satellite capacity available to serve CONUS is only a relatively small part of overall capacity and is not very large in absolute terms”).

available for its own operations,<sup>5</sup> an issue now settled in the recent L-Band Memorandum of Understanding (June 19, 1996) and 1996 & 1997 Operating Agreements to which AMSC is a party. There is no practical need for the application of a competitive entry standard to traditional Inmarsat services because there can be no significant competitive impact.

Moreover, the extremely limited size and scope of the "domestic" market for traditional Inmarsat services undercuts another premise of an ECO-Sat test -- that examination of competitive opportunities for U.S.-licensed satellites in the "home countries" of prospective US market entrants will facilitate greater market access worldwide. COMSAT, one of the few commenters who did focus specifically on Inmarsat services, correctly recognizes that restricting services in these niche markets could not as a practical matter create leverage over Inmarsat signatories to induce them to adopt policies that meet US interests concerning other services.<sup>6</sup>

### **III. THE COMMENTERS FAIL TO RECOGNIZE THE PRACTICAL PROBLEMS CREATED BY A DISTINCTION BETWEEN "DOMESTIC" AND "INTERNATIONAL" TRADITIONAL INMARSAT SERVICES**

Many of the commenting parties seeking to subject traditional Inmarsat services to the ECO-Sat requirements on "domestic" routes overlook the practical realities of implementing such a policy. As explained in BTNA's comments, an Inmarsat provider

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<sup>5</sup> Comments of AMSC Subsidiary Corporation at 2-4.

<sup>6</sup> "In short, any continued restriction on COMSAT's ability to serve the U.S. domestic market through the INTELSAT and Inmarsat systems is unlikely, in and of itself, to produce the foreign policy results sought by the FCC, but would serve only to restrict the choices available to U.S. customers and limit domestic competition." Comments of COMSAT Corporation at 5.

cannot identify the location of an aircraft or vessel within the coverage area of the satellite through which the mobile terminal is communicating. Without the ability to pinpoint the exact location of the mobile terminal, the Inmarsat provider has no basis for either terminating service when the user approaches the US border or instructing the mobile earth station to transfer to the call to the AMSC system at that point. Moreover, there are no effective “hand-off” procedures in place to transition a call from Inmarsat to AMSC. Such a transfer assumes, of course, that the customer has both an Inmarsat and an AMSC terminal at its disposal - an expensive and therefore unlikely proposition. Because of space and weight limitations, most aircraft cannot carry duplicative satellite telecommunications systems. The same is generally true for ships. Forcing a hand-off under these circumstances would pose serious safety concerns and would undermine Inmarsat’s ability to provide essential Global Maritime Distress and Safety Services (GMDSS) or aeronautical safety communications.

BTNA is not alone in its view. For example, AT&T in its comments supports the need to allow Inmarsat to provide continuous coverage to aircraft traveling into US airspace.

It would be appropriate for example, to allow COMSAT to provide U.S. domestic Aeronautical Mobile Satellite Service (“AMSS”) using INMARSAT space segment to aircraft on domestic segments of international flights. This would allow aircraft to avoid engaging in cumbersome hand-off procedures between AMSC and INMARSAT space segment.<sup>7</sup>

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<sup>7</sup> Comments of AT&T Corp. at 15 n. 9.

Because it is impossible in most instances (and otherwise wasteful and unnecessary) for ships and aircraft travelling domestically and internationally to carry such dual equipment, it is pointless to employ a competitive entry test to evaluate the market effect of the provision of traditional Inmarsat services within the domestic US market. Rather than make arbitrary distinctions between domestic and international service, the Commission should recognize that there is no need to set up artificial geographic categories for traditional Inmarsat services.

#### **IV. THE COMMENTERS FAIL TO RECOGNIZE THAT TRADITIONAL INMARSAT SERVICES ARE VITAL TO PUBLIC SAFETY ON “DOMESTIC” ROUTES**

Because commenters concerned about IGO competition paint their arguments with a broad brush, they fail to address the fact that traditional Inmarsat services are absolutely essential for public safety and convenience. For instance, Lockheed lumps Inmarsat’s ability to provide “domestic” service in with its competitive concerns about Intelsat and IGO spin-offs, without acknowledging the essential role of traditional Inmarsat services now and in the future.<sup>8</sup> Similarly, Orbcomm considers the IGOs and their progeny to be “largely interchangeable,”<sup>9</sup> regardless of the market served, again failing to distinguish between market segments in which it would operate in present and future markets in which Inmarsat is the only source of critical public services.

The record demonstrates the impracticality and potential danger of imposing geographically based restrictions on traditional Inmarsat services. AMSC -- the sole US-

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<sup>8</sup> Comments of Lockheed at 13-14.

<sup>9</sup> Comments of Orbital Communications Corporation at 2 n.3.

licensed mobile satellite system operating in the near term -- has not adopted the ICAO standards for aeronautical services, and its system is incompatible with Inmarsat's. Nor is there any suggestion that any of the newly licensed, future earth orbit systems will configure their operations to meet these standards. The Commission has recognized that restricting the "domestic" use of traditional Inmarsat services threatens safety public.<sup>10</sup> AMSC itself does not explain how services essential to the public safety and convenience can be provided if Inmarsat is arbitrarily barred from this marketplace.

To the extent that the commenters address these services, they recognize the pivotal and special role played by Inmarsat. COMSAT, for one, emphasizes this role in commenting that "any policy that undercuts servicest uilizing the Inmarsat system would, among other things, jeopardize the safety of life and property at sea."<sup>11</sup> No commenter has rebutted the overwhelming gains to public safety and convenience arising from Inmarsat's comprehensive provision of traditional services, and these factors outweigh the insignificant competitive impact on current and foreseeable mobile satellite services.

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<sup>10</sup> Report and Order, CC Docket No. 87-75, FCC 96-161 (rel. May 9, 1996) at para. 23 ("limiting the use of the Inmarsat system to beyond 12 miles from the U.S. shore raises operational and reliability concerns in that it would require aircraft to switch providers of communications services at that point").


<sup>11</sup> Comments of COMSAT Corporation at 10.

**V. CONCLUSION**

For the reasons stated above and in BTNA's initial comments, the Commission should not adopt any competitive entry standard for traditional Inmarsat services.

Respectfully submitted,

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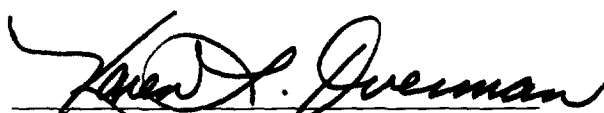
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Dated: August 16, 1996



## CERTIFICATE OF SERVICE

I, Karen L. Overman, an administrative assistant with Concert Management Services, Inc., hereby certify that on this 16th day of July 1996, a copy of the foregoing Comments of BT North America Inc. was hand delivered to the parties listed below.



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